

**CALENDAR ITEM
C62**

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GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Ryan P. Friedman and Amy A. Daniel

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 5445 Garden Highway, near the city of Sacramento, Sacramento County.

AUTHORIZED USE:

Removal of an existing boat dock and two cable anchors, the construction of a new boat dock with two pilings, and the use and maintenance of an existing gangway not previously authorized by the Commission.

LEASE TERM:

10 years, beginning February 9, 2016.

CONSIDERATION:

\$184 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject dock and appurtenant facilities are for the docking and mooring of boats. Recreational boating is water-dependent and is generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Public Resources Code

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6503.5). The subject structures are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a non-exclusive use provision.

A dock and appurtenant facilities have existed for many years at this location and the replacement dock will be located in the same area. The facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the Lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the dock and appurtenant facilities will not substantially interfere with public trust needs, at this location, for the foreseeable term of the proposed lease.

The proposed lease requires the lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. The existing dock facilities have existed at this location for many years, but have not been previously authorized by the Commission. The Applicant is now applying for a General Lease – Recreational Use for the removal of an existing boat dock and two cable anchors, the construction of a new boat dock with two pilings, and the use and maintenance of an existing gangway.
3. Staff recommends the issuance of this lease as it promotes Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

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4. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, Title 14, section 15302.

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300.

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

Approvals Obtained:

Regional Water Quality Control Board, Reclamation District 1000

Further Approvals Required:

U.S. Army Corps of Engineers, California Department of Fish and Wildlife

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 2, Replacement or Reconstruction; California Code of Regulations, Title 14, section 15302.

CALENDAR ITEM NO. **C62** (CONT'D)

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Ryan P. Friedman and Amy A. Daniel beginning February 9, 2016, for a term of 10 years, for the removal of an existing boat dock and two cable anchors, the construction of a new boat dock with two pilings, and the use and maintenance of an existing gangway not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration: \$184 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 26929

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 404 patented January 6, 1869, Sutter County, State of California, more particularly described as follows:

PARCEL 1 – DOCK

All those lands underlying an existing gangway, a proposed dock, and two (2) proposed pilings lying adjacent to those Parcels as described in that Grant Deed recorded December 2, 2011, in Book 20111202 Page 0041 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

This description is based on Applicant provided design plans by Mid-Cal Construction dated September 14, 2015, for a proposed dock, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

END OF DESCRIPTION

Prepared October 28, 2015 by the California State Lands Commission Boundary Unit.



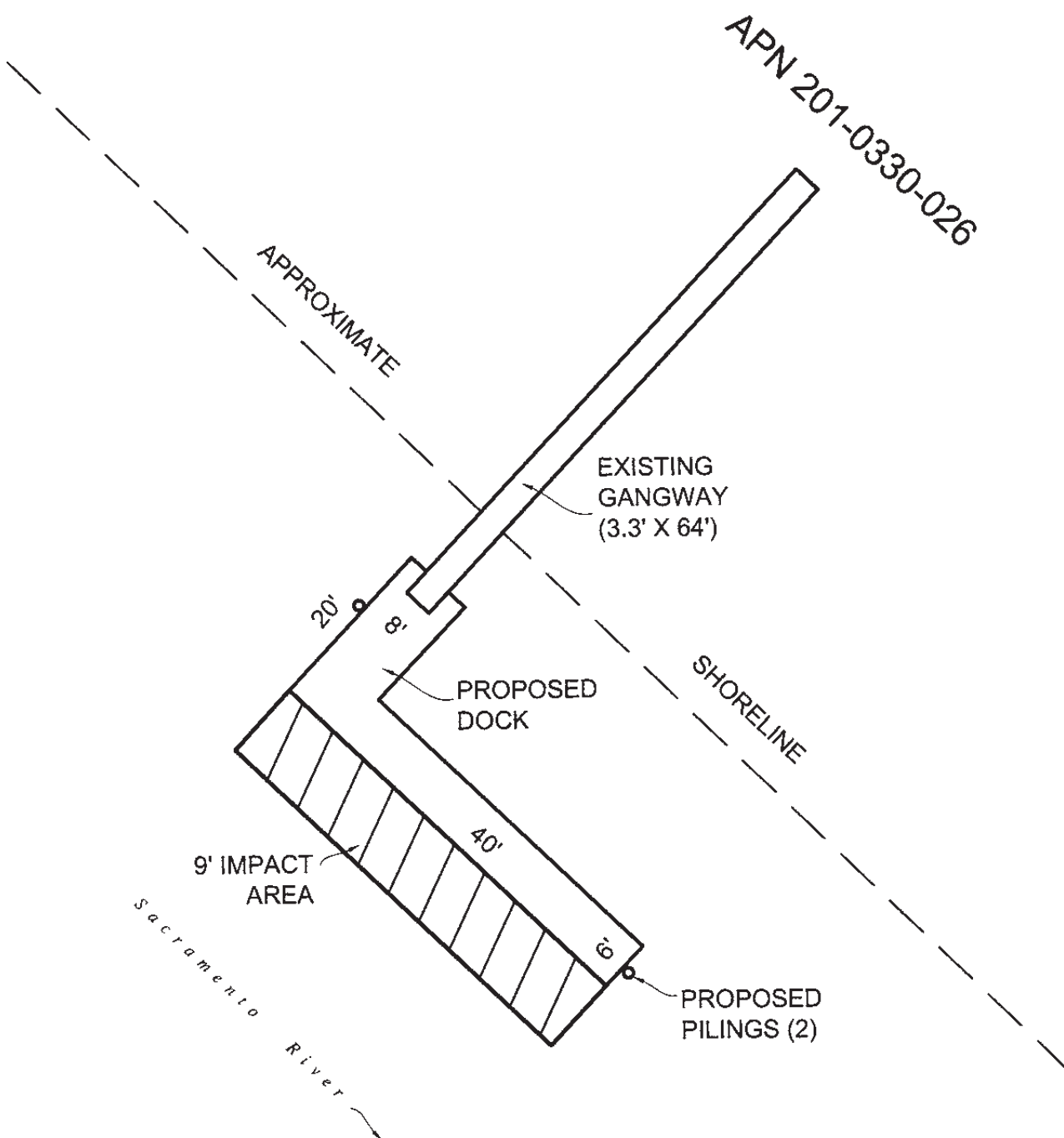


EXHIBIT A

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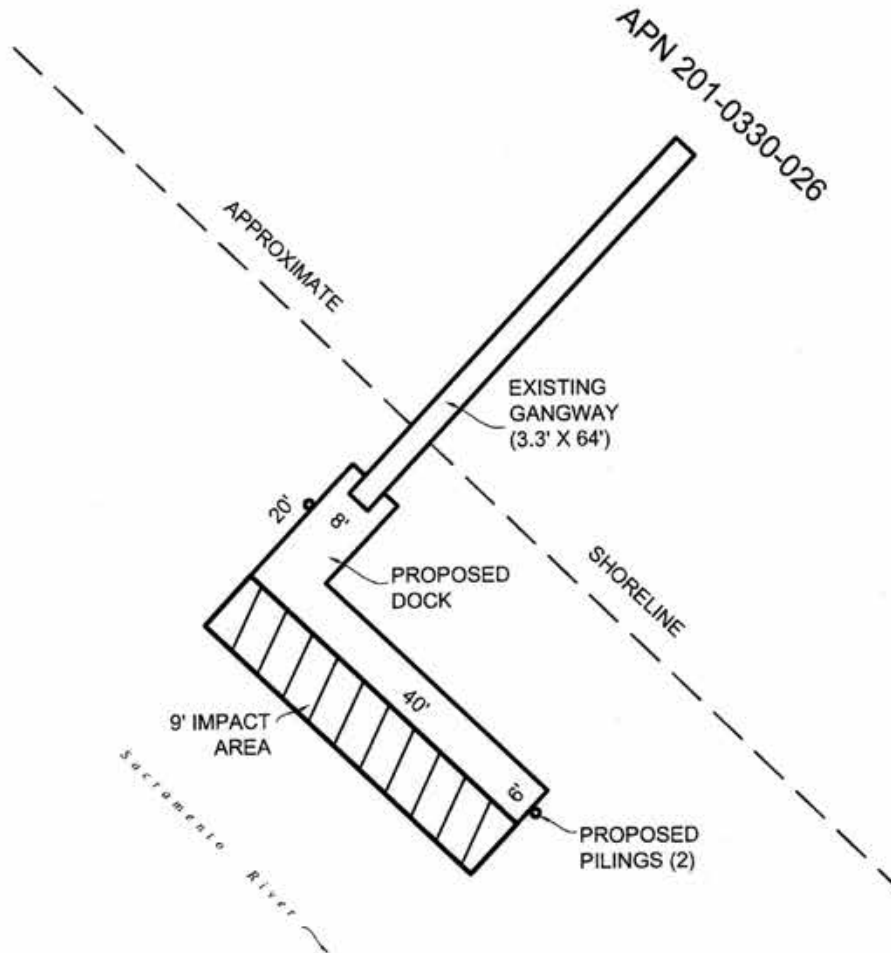
LAND DESCRIPTION PLAT
W 26929, FRIEDMAN & DANIEL
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



5445 GARDEN HWY., NEAR SACRAMENTO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26929

FRIEDMAN & DANIEL

APN 201-0330-026

GENERAL LEASE -

RECREATIONAL USE

SACRAMENTO COUNTY



MJJ 10/28/15

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.